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MEMOIR

OF THE

HON. JOSHUA ATHERTON.

BOSTON:

CROSBY, NICHOLS, AND COMPANY.

1852.



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HON. JOSHUA ATHERTON.

*Charles Humphrey Atherton.*

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# MEMOIR

OF THE

HON. JOSHUA ATHERTON,

BY HIS SON,

CHARLES H. ATHERTON.

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My father was born at Harvard, in the county of Worcester, Massachusetts, near the Nashua (called at this place Still River), June 20th, 1737. He was the son of Peter Atherton of Harvard, who married Experience Wright of Andover. Their sons were three, viz. Peter, the eldest, Joshua, the subject of this Memoir, and Israel. Peter Atherton, the father, was a blacksmith by trade, and a man of some little note, being a magistrate, a colonel of the Massachusetts militia, and a member of the General Court at the time of his death, which happened at Concord, in the county of Middlesex, on the 13th of June, 1764, when he was sixty years of age, and in attendance there as the representative from Harvard. The occasion of his sudden death was an attack of the bilious colic. Peter, the son, was the farmer, and occupied the old homestead. Israel was from his youth des-

tined for a liberal education. Joshua was intended to follow the footsteps of his father as a farmer and blacksmith; but a severe bilious fever so enfeebled him, and shattered his constitution, that the idea of his acquiring a livelihood by manual labor was abandoned, and his parents consented that he should prepare for college, and overtake Israel in his studies, if he could. Being about twenty years of age, he was put under the tuition of the Rev. Timothy Harrington, then the settled minister of the neighboring town of Lancaster.

At twenty-one years of age he, and his brother Israel at seventeen years, entered Cambridge College in the same class, in the year 1758, and were both graduated in the year 1762. Francis Dana, afterwards Chief Justice of the Supreme Court of Massachusetts, Elbridge Gerry, afterwards Governor of Massachusetts, and Jeremiah Belknap, the historian of New Hampshire, were of the same class. The alphabetical arrangement of the members of a class was not adopted till 1773. Before that time they took their line in the class according to an imputed dignity supposed to be derived from their parents. The sons of the great officers of the government and of College, according to their grade, ranked first, and then the sons of clergymen. After them the sons of justices of the peace, farmers, mechanics, &c.

The class of 1762 consisted of forty-seven members, and Joshua Atherton and Israel Atherton are placed somewhat nearer the head than the foot. They are placed before Gerry and Belknap; while Ebenezer Champney, who will long be remembered by the citizens of the county of Hillsborough as their excellent Judge of Probate from 1793 to the time of

his death in 1810, being the son of a poor mechanic of Cambridge, took his station the last but one in the class.

My uncle Israel selected the profession of medicine, and put himself under the guidance of the celebrated Edward A. Holyoke of Salem, and established himself at Lancaster, about four miles from his mother, who was now the surviving parent. He devoted himself exclusively to his profession, and acquired skill and eminence in it. He deceased in 1822, at the age of eighty-one years. Joshua, my father, took to the profession of the law, and commenced the study under Abel Willard of Lancaster, and completed his term under James Putnam of Worcester, who was the King's Attorney-General for the Province of Massachusetts, and an eminent jurist of that day. He was admitted to the bar in the county of Worcester, May term, 1765, and immediately opened his office at Petersham in the same county, where he purchased a small tenement. The high repute of New Hampshire as a place of business for an aspiring and an active young man, and the flourishing account given of the rich intervalles in Litchfield, on the Merrimack, soon induced him to abandon Petersham, and try his fortune at Litchfield, where he opened his office in the fall of 1765.

In the mean time, to wit, in November, 1765, when twenty-eight years of age, he married Abigail Goss, daughter of the Rev. Thomas Goss, then the settled clergyman of Bolton, and removed her to the mansion-house of his mother in Harvard, where his eldest child, Frances, was born. This angel of a wife and mother was little more than sixteen years of age at the time of her marriage. His attachment

to her commenced in the last year of his College life, while keeping the grammar school at Bolton, which she attended as a scholar. In the joyous day of her nuptials, little did this young girl know or think of the trials, hardships, and mortifications of her future life. My father took her to Litchfield in the year 1767, and resided in the house afterwards occupied by Wiseman Clagett, and subsequently by his son, Clifton Clagett. In 1768 he moved on to the other side of the river, to Merrimack, where he purchased a small farm and house, the same that was subsequently occupied by Stephen Lund, about a quarter of a mile below Thornton's Ferry, on the river road. Here he resided in the profitable engagements of his profession till the early part of the summer of 1773, when he moved to Amherst, having purchased the farm and dwelling-house of Major Robert Read.

At this home he spent the residue of his life, except when absent on business, and when he was a prisoner. The house and part of the farm are now (1852) occupied by Ebenezer Rhodes.

At Merrimack his practice as a lawyer had become respectable and profitable. Here resided his old and constant friend, Edward Goldstone Lutwich, a retired colonel of the British army, a man acquainted with the world, used to good society, and withal a man of refined literary taste. He left this neighborhood with reluctance. His controlling inducement to remove to Amherst was that he had been appointed the Register of Probate for the new county of Hillsborough, John Goffe of Goffstown being the Judge; that by the act dividing the Province into counties, allowed by George the Third, and published here on the 19th of March, 1771, Amherst

was established to be the shire town of the county. Rockingham had ceased to be the only county in the Province, and courts were to be held at other localities than Portsmouth.

His professional popularity continued to increase. Affluence seemed within his reach. His farm had been paid for. Improvements in his real estate and buildings were surrounding him with comforts. His heart was filled with the generous aspirations of a young man who felt the advantages which his talents and education gave him, who honored his profession, and loved his king, to whom he had sworn allegiance, and the country where were the graves of his ancestors. But this prospect, so fraught with hope and encouragement, was soon to be most sadly reversed. The controversy between the Colonies and the mother country increased in exasperation and bitterness, and Mr. Atherton, most unfortunately for himself and family, was an open and a firm Loyalist. He was utterly opposed to all those measures the tendency of which was to bring the controversy to the trial of arms, for in that trial his convictions were, the Colonies must fail, that success would continue to follow the British arms, and that we should be subjugated provinces, at the mercy of an exasperated and jealous victor. Not insensible to the wrongs inflicted upon us by the mother country, he thought a war with her would be fatal to the liberties which we claimed, and to which we were entitled.

England was then at the acme of her power. France, Spain, and Holland had succumbed to her naval superiority. The whole ocean was her domain. Her navies rode triumphant on every sea. How could the thirteen Colonies, whose population was



about three millions only, — destitute of powder, cannon, and arms, and particularly deficient in money, the sinew of war, — not bound together by any general government, and when a temporary government had little more than the power of recommendation to these thirteen distinct Colonies, — wage a successful war of any duration against such a power? Although a Colonial Royalist at that time might have been willing, with Patrick Henry, to exclaim, “Give me liberty, or give me death,” he may, I think, yet be pardoned, if, under the circumstances, he was of opinion that war was not the way to secure that liberty, but that probably it would convert the illegitimate claims of England into a firm and indubitable right of conquest. I think he may be pardoned in flattering himself that the sympathy for the rights and claims of the Colonies, which manifested itself in various parts of England, and particularly in London, would soon spread over the whole nation, and produce a change in a corrupt and perverse administration, and establish a ministry favorable to our just and reasonable demands.

These opinions and feelings of Mr. Atherton made him, however, extremely unpopular. He was early branded with the odious name of “Tory.” He had become too conspicuous in the county of Hillsborough, as an advocate and counsellor, not to have secret, as well as open enemies. The most unkind, false, and malicious surmises were circulated against him, with the disposition on the part of almost every Whig to believe them. He and his family were subjected to continual reproaches and insults from the populace. These things were grievous to bear. His Whig friends, for he had many such, entreated him,

with tears in their eyes, to unite with them. His fellow-Loyalists besought him to join them in flying to the mother country, or to the British Provinces of Nova Scotia and New Brunswick. He would do neither. He was determined not to abandon his country, but to abide the result, whether for weal or woe, and he could not conscientiously join the revolutionists.

After the foray at Concord and Lexington, April 19th, 1775, and the battle of Bunker Hill, June 17th, 1775, the populace became extremely indignant and insolent. The revolutionary excitement increasing, affairs soon grew too hot for the royal Governor of the Province, John Wentworth. He retired for security first to the fort at Portsmouth, on the 12th of June, 1775, and subsequently in effect abdicated the government, by escaping to the Isle of Shoals, under the protection of the Scarborough and other British ships of war. Government in New Hampshire was not only crippled, but prostrated. In this condition of things, the situation of Mr. Atherton, before quite uncomfortable, became perilous in the extreme. In fact, government was dissolved in this State; and that the people, loosened from all restraint, did not proceed to greater outrages than they did, is remembered to their lasting honor. The laws and institutions which were derived from England had made us a sober and law-abiding people. These habits had been so firmly stamped upon the character of the people, that they continued in the main to be governed by them when there was no legal authority to enforce them.

Mr. Atherton, however, was subjected to all sorts

of gibes and reproaches; even his wife and children did not escape these indignities. His house was several times surrounded by a rabble. He was called forth and marched up to Captain Ephraim Hildreth's, who kept a tavern near the old meeting-house, which was used as a court-house, near what is now the mansion of Colonel Levi Jones. He bore these indignities with as much philosophy and good humor as he could command. These ceremonies terminated by a bountiful supply of flip, punch, and toddy, at Mr. Atherton's expense. The mob dispersed in good nature, tossing up their hats with huzzas for the Tory, and expressing their regrets that so generous a man was not one of the sons of liberty. These visits were repeated, probably as much for the treat and frolic as to vindicate the rights of the country. It would perhaps be uncharitable to say that, with their other fervors, the fervor of patriotism did not predominate.

A remarkable feature of those gatherings was, persons friendly to my father, and not averse to his political views, but who nevertheless had the address to keep themselves in good repute with the populace, mingled themselves with these mobs, with a view to prevent excessive outrage, and also to advise Mr. Atherton what conduct on his part would be the safest.

Let not the modern reader be surprised at the foregoing relation. In our present prevalence of law, general refinement, and civilization, it may be difficult to conceive where a mob can be found among our population. However this may be, it is undoubted that at that period there were to be



found among us the ingredients of which mobs are composed.

It is a most pleasant and gratifying reflection, that, amidst all the fervors of the people, whether patriotic or otherwise, nothing appeared more remote from them than bloodthirstiness. The French Revolution had not occurred, and they had not before them the example of revolutionary blood-shedding. They had not been instructed in the despatch with which suspected persons could be eased of their heads by the quick motion of the guillotine. There were here no *noyades* and republican marriages, as they were called, by which females were chained to males, and put by thousands into boats perforated at the bottom, and drowned. The waters of none of our rivers were made putrid and unhealthy, like the Loire, with bodies of the executed, so that a public prohibition against their use was found necessary. The principle had not been announced and acted upon, that aristocracy run in the veins of a certain portion of mankind, and that the surest way to introduce the millennium of freedom and happiness was to kill out this blood from among them. These exhibitions of cruelty did not belong to America. They were the fruit of an after period in the progress of mankind, and owe their origin to the boasted superiority of the French in civilization. To the forbearance, moderation, and good sense of our Whigs is in the main to be attributed their complete success in this country, and the striking contrast between the present condition of the United States and that of the French republic (1852).

I have said that Mr. Atherton bore up under the

unpopularity, taunts, and ill-treatment to which his expressed opinions and feelings subjected him, with all the philosophy and good humor he could command. But on one occasion, it is remembered, he retorted with a practical joke upon his assailant, very much to his inconvenience and displeasure. As on one bright spring morning he was working in his garden, an old gentleman by the name of C—e, on horseback, with his wife behind him on a pillion, rode up to the garden fence, accosted the Tory, and expressed his joy to see him digging, and wished every Tory in the country was obliged to dig for a living, and began dealing out the usual slang of the day. “Soho! Mr. C—e,” said Mr. Atherton, “did you know the girt is under your horse’s belly?” Alarmed at this information, he directed his wife to slide herself off over the tail of the horse, so as not to turn the saddle, and he dismounted himself with great care, when he discovered, to his mortification, that truly the girt was under the horse’s belly, just where it ought to be. By this time Mr. Atherton had retreated into the house, and from the window enjoyed the passion the old man exhibited, and the difficulty he had in remounting himself and his old woman. Here it will not be out of place to say, my father was an excellent gardener, and had the best garden in the county.

In these days of cool reflection, imagination can hardly conceive the extravagance, the absurdity, and folly of the suspicions that gained ready credence, in the then excited and jealous state of the public mind, against those who were suspected of Toryism. Their most innocent acts were considered as having some-

thing treasonable in them. Some wiseacre had reported that my father harbored in his house a British spy. His house was forthwith surrounded with all sorts of people, with all sorts of arms, to prevent the escape of the spy. A committee, armed with pistols and swords, entered the house, and claimed the right to search it, to which Mr. Atherton consented, and opened to them all the recesses and closets of the house and cellar. At that time he had a half-witted negro servant, who was excessively frightened at this array of arms, thinking the day of judgment had come. In his fright, he took an old bed-quilt, ensconced himself within it in a dark corner of the garret, which was the only place that remained to be searched. The committee approached, arms in hand, and discovered something moving under the quilt, which they seized, my father crying out, "Now you have got him!" Poor Cato was dragged to the light, his face almost white with fear; when they discovered they had captured the negro servant instead of the spy. The search was discontinued, with some mortification and a general laugh. At another time, my father wanted for family use two or three wooden bowls, and applied to a maker and vender of such articles; he was refused, on the ground that he was a Tory, and that the articles were intended for the aid and comfort of the enemy.

On the 3d of November, 1775, Congress passed a Resolve recommending to the Provincial Convention of New Hampshire, which had applied for advice, to call a full representation of the people, and to establish such a form of government as would best promote their happiness.

During the continuance of the dispute between Great Britain and the Colonies, subsequently, viz. on the 6th of October, 1776, Congress recommended to the several Provincial assemblies or conventions, councils, or committees of safety, to arrest and secure every person in their respective Colonies, whose going at large might, in their opinion, endanger the safety of the Colony or the liberties of America.

In pursuance of the above resolve of November 3d, 1775, the Revolutionary Government of the Colony of New Hampshire was established on the 5th day of January, 1776. As a matter of course, his commission as Register of Probate, and his royal commission as a Justice of the Peace, went by the board. Matthew Patten, of Bedford, was appointed Judge of Probate, and General Jonathan Blanchard, of Dunstable, was the successor of my father in the office of Register.

Mr. Atherton rejoiced at this establishment of government, as he supposed it would deliver him from the control of the mob, and be followed with something like law and order. But on the 14th of March, 1776, Congress recommended a general disarming of disaffected persons throughout the Colonies. Belonging to the class of suspected persons, his house was searched for arms that might give aid to the enemy and endanger the liberties of the country. The only warlike weapon he possessed was a favorite fowling-piece, of which he was disarmed. This robbery was a frequent subject of lamentation, and he would never acknowledge that he could find its equal. After the war, another gun was restored to him, as a compensation for the one taken from him,



but in his estimation far inferior to it. To account for this attachment to a particular fowling-piece, it is only necessary to observe, that he was a sportsman, and particularly fond of fowling and hunting. This fondness for field sports he retained for many years after the war, till he broke his arm, by falling on to a rock, in attempting to cross a small brook on a slippery log, in his endeavor to reach a covey of partridges which his good dog Brutus had raised. In his rides on horseback for business or pleasure, he usually carried his fowling-piece with him, resting the breech in a boot appended to the saddle. It is remembered that one year he brought home seventy partridges, the fruit of these excursions.

He undoubtedly, erroneously, flattered himself that, under the new government, an examination and hearing would precede punishment. In the consciousness of his own innocence in every thing but his declared opinions, he felt secure from molestation. He had not apprehended the absolute, dictatorial, and irresponsible power of a Committee of Safety towards persons suspected of anti-revolutionary tendencies. It should be considered, however, it was especially their duty to see "that the Republic suffered no detriment"; and they arrested on suspicion, surmise, or secret information from enemies, and imprisoned without any disclosure of evidence, any hearing or examination. It was necessary for them to do something, too, in order to quiet the public uneasiness, and perhaps to save individuals from greater outrage.

It seems that he was a prisoner at Exeter, by order of the Committee of Safety, as a disaffected person,

dangerous to the liberties of the country. This is shown by his letter to my mother, July 3d, 1777, written shortly after his imprisonment; how soon after I cannot ascertain, the records of the Committee of Safety in the Secretary's Office being in a most dilapidated state, and not affording the information.

It would also appear that the Hillsborough prisoners, viz. Jonathan Gove of New Boston, Leonard Whiting of Hollis, and Joshua Atherton, when the jail in the new county was in a condition to receive them, had been transferred from Exeter to Amherst; for on the 5th of June, 1778, on their petition, the Committee liberated them from confinement, on condition that they severally entered into a recognizance of £1,000 each, with two sureties in £500 each, to appear at the Supreme Court of Judicature to be holden at Amherst by adjournment on the 21st of September next, "to answer to all matters and things that may there be objected against them, or by their being concerned in fabricating notes and bills in imitation of the good and true bills of credit of New Hampshire and the United States, or any of the States, and altering and passing the same, &c. And also give bonds to the Honorable Meshech Weare, chairman of the Committee of Safety, in trust for the government and people of New Hampshire, in £1,000 each, with two sufficient sureties, conditioned to be good and faithful subjects of the State, and remain within the limits of said County of Hillsborough, and shall neither do nor say any thing against the Independence of the United States of America, nor in favor of the claims of the King of Great Britain,

and that they shall not have any correspondence with, or in any way aid, assist, or give comfort to the subjects or abettors of said King.”

In his confinement at Exeter, I infer that he had private lodgings, from an order of the Committee of Safety, of October 11, 1777, that Joshua Atherton confine himself within ten rods of his lodgings. In his imprisonment at Amherst, by the connivance of the Committee, or some member of it, or of Deacon Ephraim Barker, the keeper of the prison, my father, I believe, found means to spend most of his nights with the family, and superintend his domestic concerns.

The reader will undoubtedly notice the particularity and stringency of the foregoing recognizance and bond. No doubt the government were molested by the counterfeiting of their bills of credit, and suspicion generally pointed to the Tories. It was not supposed that any of the sons of liberty would be guilty of such a breach of patriotism. If they were guilty and suspected, it was an easy matter to parry these suspicions, by turning them upon the Tories. The majority were willing, of course, to believe any surmise against them. Some of them were guilty, and some were convicted and punished, but not a scintilla of evidence ever appeared against Mr. Atherton. If his moral principles would not have prevented him from the commission of such a crime, his education and practice as a lawyer had taught him its folly and wickedness.

Mr. Atherton entered into the recognizance, and gave the bond required, so that his person was now at liberty, except in the prohibition of going beyond

the limits of the county. He had been for some time convinced that the time had passed for a compromise of our controversy with Great Britain, and after the surrender of Burgoyne and his army, he had no doubt that the country would maintain its cause and its Declaration of Independence; and but for his imprisonment, and the suspicions that were rife against him, would have taken the prescribed oath of allegiance to the State of New Hampshire and the United States. Soon after his liberation on his recognizance and bond, he petitioned the Committee of Safety to be released from his confinement to the limits of the county. The following letter addressed to a conspicuous member of that Committee will illustrate his views and objects: —

“ Amherst, October 16th, 1778.

“ SIR: — I have committed to the care of one of the honorable members of the Committee of Safety, Jonathan Lovewell, Esq., a petition to be restored to the full enjoyment of that personal liberty to which I flatter myself every member of the state is fully entitled, until he has forfeited it by the perpetration of those crimes by which the law deprives him *of that liberty*. And I know of no surer evidence of this personal right, (when evidence is required,) for the law presumes every man innocent until he is proved guilty, than a full discharge by his country, after inquiry made in due course of law. And this inquiry having been made, and a year and a half having been spent *in the inquiry*, in which time the Superior Court of Judicature has held three terms in this county, I think my most inveterate enemies can-



not say any advantage has been taken to impede the elucidation of this point. This was a period I have waited for with great patience, and wished for much more ardently than perhaps they did. It has arrived, although with slow advances, and the Superior Court, which lately held its session here, wholly discharged me. I had all along declined making any advances towards taking the oath of allegiance, lest it should be said I purchased my discharge at the expense of my innocence and conscience; but being honorably acquitted, I conceived a favorable opportunity presented me to return to the occupations and enjoyments of a good subject. I therefore took and subscribed the oath of allegiance last week before the justices of the Inferior Court of Common Pleas, being thereupon admitted an attorney of that court, as I flatter myself to the universal satisfaction of all men of reason and moderation and true love of their country hereabouts. For surely none but men of boisterous and unsteady tempers, who would persecute out of private pique or malice, or would foist in their own grudges and suspicions to the exclusion of those noble supporters of human society, truth and justice, — I say none but such men can wish to lessen the number of the allegiate subjects of the State.

“But I must beg your pardon for running into sentiments which I own, with many others of like nature, I can hardly suppress, and come to the main business of this letter, which was to entreat your kind interposition in favor of my petition. The former experience I have had of your goodness, together with your known humanity, justice, and mod-

eration, has induced me to give you this trouble. I shall make no apology for my presumption in this attempt, not because I have not the highest sense of the obligation you will lay me under, but because I really think, from the natural benevolence of your mind, you take a pleasure in doing acts of kindness, humanity, and justice.

“I have ever thought it a peculiar infelicity that one of the agents of the State was my *particular personal enemy*, a circumstance, I suppose, unknown to the Committee of Safety. I should hope, therefore, and firmly persuade myself, that they (the agents) never will lie under the imputation of a deficiency in point of duty in the elucidation of my guilt, if any there was to elucidate. These gentlemen, when clothed with their authoritative agency, are environed with secrecy, to wound and to destroy. This power can only be controlled by two things. One is, an elevation of mind, which shall bear them superior to all low arts, such as craft, fraud and malice, calumny and oppression, inhumanity and injustice of every kind, &c., &c. The other is the due and ordinary course of law, which I humbly presume ought ever to bear away the accused out of their hands. For however such an authority may or may not be necessary to the well-being of the State, (an inquiry I shall not presume to meddle with,) certain it is, that their hand may fall very heavy upon individuals, who will be without remedy if the due course of law does not afford them one. You see, Sir, how much reason I have to crave your pardon again for running into speculations which I did not intend, and shall no further intrude upon your patience, than to assure

you I have the greatest reliance upon your kind offices, which will confer an obligation never to be forgot by your most humble and most obedient servant,

“JOSHUA ATHERTON.

“HON. E. THOMPSON, ESQ.”

The petition was undoubtedly granted immediately. At the September term of the Superior Court, 1778, he had been discharged from his recognizance, with proclamation. The judges were Meshech Weare, Matthew Thornton, and Leverett Hubbard. At the January term of the Inferior Court, 1779, he took the oath of allegiance and the attorney's oath, and was admitted to practice.

At the Superior Court term, 1779, he took the oath of allegiance to the United States, and the oath of an attorney, and was admitted to practice in that court. The Inferior Court judges were James Underwood, Timothy Farrar, and Jeremiah Page. The Superior Court judges present were Meshech Weare, Matthew Thornton, and John Wentworth. He was admitted to practice as aforesaid, notwithstanding a remonstrance from the towns of Lyndeborough and New Boston, with a few signers on each, against the admission of a person so dangerous to the liberties of the country as Joshua Atherton. These remonstrances were after the same form, showing that they had been prepared, and subscribers procured thereon, by some personal enemy.

The oath of allegiance had been prescribed by the Council and House of Representatives, by the act of November 8, 1777, and was as follows:—

“I, A. B., do solemnly swear that I do renounce, refuse, and abjure any Allegiance or Obedience to George the Third, King of Great Britain; and that I will, to the utmost of my power, support, maintain, and defend the Independence of all the United States of America, as the same was set forth by the Continental Congress, in their Declaration of the fourth of July, one thousand seven hundred and seventy-six. And I do promise that I will bear Faith and true Allegiance to the State of New Hampshire during my Residence therein; and will disclose and make known to some Magistrate acting under said State all Treasons and Conspiracies which I shall know to be against the United States, or any one of them, as independent of the Crown of Great Britain. And these Things I do swear according to the plain and common Sense of the Words, without any Equivocation or secret Reservation whatsoever; upon the true Faith of a Christian. So help me God.”

He was now in the forty-third year of his age. The severity of the Revolutionary storm had passed over. The stings of obloquy had in a great degree ceased. But his business, his farm, fences, and buildings, and his affairs generally, were in a most miserable state of dilapidation. He lay like some thrifty tree uprooted by the late gale, prostrate, divested of its foliage, its limbs broken and scattered. His family was much increased, and increasing. His and their sufferings will hardly bear relation. Now better days began to dawn upon him. His business increased, and was soon abundant and lucrative.

As the prospect of peace increased, the good-will of the community began to return to him. After the

peace, there was a gush of good feeling towards him, as if by way of indemnifying him for his harsh treatment. This reaction in the public mind was very consolatory to him. Amherst chose him one of a committee to form amendments to the Constitution of the State, which was adopted in 1783. On this committee he took an active part, and was a firm advocate of the Bill of Rights; Magna Charta, the English Petition of Right, and the Revolution of 1688 forming his *beau ideal* of the rights of the people.

He had for students at law the Rev. Asa Dunbar, an ex-clergyman of Salem, who was admitted as an attorney, January term, 1783, and established himself at Keene, and Samuel Dana, an ex-clergyman of Groton, who was admitted to the Superior Court, September term, 1783, and settled in Amherst. It afforded Mr. Atherton great pleasure to contribute to the advancement of men for whose Revolutionary sufferings he had a fellow-feeling.

His business now became extensive. His office was crowded with clients. For several years he generally took the lead in the docket. He was a very successful advocate with the jury, and was often the leading counsel in all disputed actions on the list of trials. At one term he was so successful, that he gained every cause tried.

The students at law in his office in the years 1784, 1785, and 1786 were William Plumer, afterwards so highly distinguished by the first offices in the power of the people or the Legislature to confer. Mr. Plumer remained with him but a short time, as my father insisted upon his learning the Latin language, and put him upon Lilly's Latin Grammar, instead



of Blackstone; and he, thinking this discipline unnecessary at his age, left, and went into the office of the Hon. John Prentiss of Londonderry, where no such requirement was made. William Coleman, afterwards the celebrated editor of the New York Evening Post, Jonathan Blanchard, son of Jotham Blanchard, and William Gordon, who married my father's eldest daughter Frances, and settled in Amherst, were also his students.

Immediately after he was discharged from his recognizance, and had taken the oath of allegiance, the kind feelings of the Whig town of Amherst were manifested towards the persecuted Tory. He was placed on the most important committees of the town, particularly in the settlement of the Rev. Jeremiah Barnard. He was appointed agent to conduct suits in the courts of law, and for and against petitions before the Legislature. These things are mentioned to show the sudden return of good-will in his fellow-townsmen.

The Convention for the Adoption of the Constitution of the United States met at Exeter on the 13th of February, 1788. Mr. Atherton was the delegate from the town of Amherst, to oppose the Constitution in the form in which it was proposed. This Convention commenced its session at Exeter, when, on the 22d day of the same month, it adjourned to meet at Concord on the 18th day of June then next, and in three days, to wit, on the 21st of June, they completed their work.

Parties now took the names of Federalists and Antifederalists. At the commencement of the Convention there was undoubtedly a majority against the

Federal Constitution. The most influential characters — General John Sullivan, President of the Convention, a man of a captivating oratory and of great suavity of manners ; John Langdon, a merchant of Portsmouth, a sterling Whig, of great popularity ; and Samuel Livermore, Chief Justice of our Superior Court, a man deservedly of more influence than any other man in the State in all questions of policy and civil administration — were strongly in favor of it. The talent in the Convention was decidedly on the side of the Federalists. The objections of their opponents gradually grew weaker, and the vote in favor of the Constitution, with the recommendation of certain amendments, was carried by a majority of ten, the yeas being 57 and the nays 47.

Mr. Atherton was an active member of this Convention, and may be considered as the leader of the Antifederalists. His great personal objection to the Constitution was its recognition of slavery, of the domestic and foreign slave-trade, and the redelivery of those that should escape into another State. As to his objections to other parts of the Constitution, it is believed he was governed by the instructions of his town, and the advisory committee which they appointed to see that those instructions were carried into effect.

There was little speech-making in the Convention. They had no reporter. Only one attempt to give a speech of any member of the Convention is known. That was the speech of my father against the sanction it gave to slavery and the slave-trade, very imperfectly reported, no doubt, but it shows his views and feelings upon a part of that subject. I wish it

were in my power to show what he said upon that article of the Constitution which requires the delivery up to the owners of a slave escaping into another State. The following is extracted from the New Hampshire Statesman and Concord Register of July 7th, 1827.

“ IMPORTATION OF SLAVES.

“ It is greatly to be deplored that no records of the debates of the Convention of New Hampshire which adopted the Federal Constitution of the United States have been preserved. They would be of inestimable importance to the present and future inquirers into the origin and establishment of our political institutions. We do not recollect that a single speech on the adoption of any one section of the Constitution was ever published. By accident we lately found the following abstract of one made by the Honorable Joshua Atherton, delegate from Amherst, on that section relating to the importation of slaves, in the following words, viz. : —

“ ‘The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by Congress prior to 1808 ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.’

“ Mr. Dow, the delegate from Weare, spoke very sensibly and feelingly against this paragraph. Several members on the other side spoke in favor of it, with remarks on what Mr. Dow had said ; after which Mr. Atherton, from Amherst, spoke as follows : —

“ ‘ Mr. President, — I cannot be of the opinion of



the honorable gentleman who last spoke, that this paragraph is either so just or so inoffensive as they seem to imagine, or that the objections to it are so totally void of foundation. The idea that strikes those who are opposed to this clause so disagreeably and so forcibly is, hereby it is conceived (if we ratify the Constitution) that we become consenters to and partakers in the sin and guilt of this abominable traffic, at least for a certain period, without any positive stipulation that it shall even then be brought to an end. We do not behold in it that valuable acquisition so much boasted of by the honorable member from Portsmouth, "that an end is then to be put to slavery." Congress may be as much or more puzzled to put a stop to it then, than we are now. The clause has not secured its abolition.

"We do not think ourselves under any obligation to perform works of supererogation in the reformation of mankind; we do not esteem ourselves under any necessity to go to Spain or Italy to suppress the Inquisition of those countries, or of making a journey to the Carolinas to abolish the detestable custom of enslaving the Africans; but, Sir, we will not lend the aid of our ratification to this cruel and inhuman merchandise, not even for a day. There is a great distinction in not taking a part in the most barbarous violation of the sacred laws of God and humanity, and our becoming guarantees for its exercise for a term of years. Yes, Sir, it is our full purpose to wash our hands clear of it; and however unconcerned spectators we may remain of such predatory infractions of the laws of our nature, however unfeelingly we may subscribe to the ratification of

man-stealing, with all its baneful consequences, yet I cannot but believe, in justice to human nature, that if we reverse the consideration, and bring this claimed power somewhat nearer to our own doors, we shall form a more equitable opinion of its claim to our ratification.

“ ‘Let us figure to ourselves a company of these man-stealers, well equipped for the enterprise, arriving on our coast. They seize or carry off the whole or part of the town of Exeter. Parents are taken and children left; or possibly they may be so fortunate as to have a whole family taken and carried off together by these relentless robbers. What must be their feelings in the hands of their new and arbitrary masters? Dragged at once from every thing they held dear to them, stripped of every comfort of life, like beasts of prey, they are hurried on a loathsome and distressing voyage to the coast of Africa, or some other quarter of the globe where the greatest price may waft them. And here, if any thing can be added to their miseries, comes on the heart-breaking scene! A parent is sold to one, a son to another, a daughter to a third. Brother is cleft from brother, sister from sister, and parents from their darling offspring. Broken with every distress that human nature can feel, and bedewed with tears of anguish, they are dragged into the last stage of depression and slavery, never, never to behold the faces of one another again. The scene is too affecting, — I have not fortitude to pursue the subject.’ ”

The above was probably taken from Melcher's "New Hampshire Gazette," in existence during the

sessions of the Convention. It illustrates a prominent trait in my father's character, his affectionate family attachments.

He was one of a committee to report amendments to the Constitution. Twelve amendments were reported and accepted by the Convention. On the 20th of June, the day on which the amendments were reported, Mr. Atherton, seconded by Mr. Abel Parker of Jaffrey, made a motion to the effect that the Constitution be adopted, with the amendments, — not without them. On motion of Samuel Livermore, this motion was amended by adopting the Constitution with a *recommendation* of the amendments; which was carried by the majority above stated. Thus the labors of the Convention terminated.

At the coming election for members of Congress, Mr. Atherton, with others, had some of the Antifederal votes. But the Antifederalists were in the wane from the commencement of the Convention, and the Federalists became an overwhelming majority in the State, retaining the power for many years.

The Constitution was to go into operation on its ratification by nine States. Eight States had ratified it when the Conventions of Virginia and New Hampshire had it under consideration. Great anxiety was felt by Federalists in the States that had already adopted it, and a strong influence from these States was brought to bear on the Convention of New Hampshire, and great rejoicings were manifested when the ninth pillar stood upright in the colonnade. Virginia adopted the Constitution on the 25th of June, four days after its adoption by New Hampshire, and by the same majority of ten.

On the 7th day of January, 1790, Mr. Atherton met with a misfortune distressing to him and his family. His two barns, with all his winter fodder, cider-mill, and farming tools, were burned by an incendiary, and his four cows perished in the flames. He was absent with his horse, attending court at Portsmouth. The incendiary was Michael Keef, a Roman Catholic Irishman, an inhabitant of the town, and a frequent laborer for my father. The flames burst forth so soon, and caused such a light, that he thought the safer way for him was to leave the road and take to the fields. There was a light snow by which he was tracked to his back door, and a peculiar mark in his shoe clearly proved that the track was Keef's. Sundry letters were also produced, which had been left on the door-steps of divers persons in the town, threatening destruction and burning, proved to be Keef's handwriting. These letters, badly written and worse spelt, declared that the poor would pay rates no longer, but that the poor of this county, State, and all America, the true sons of liberty, would kindle a fire and pay all the damage until they reached Boston, — threatened Robert Means and Samuel Dana that they would see the Devil if they did not join the sons of liberty and let the poor go free from rates, — called on the officers of the regiment to head the sons of liberty, and go to Portsmouth and demand that liberty which they fought for and never had, and threatening to burn, in case of refusal, — that they would burn all the lawyers and such as made hay while the sun shined, — threatening, if the court-house was moved from his neighborhood to the village, it would come down

with fire, and all those who had a hand in it, &c., &c., and invoking the God of heaven to put down the rich and save the poor from taxes, and if they could not get their rights, there was one thing they could do, they could set fire. These letters were numerous, and the persons to whom they were directed were ordered, under penalty of being burned, to make them public. The court-house was removed from Keef's neighborhood on to the plain, and before it was quite finished, was burned. This was before the burning of Mr. Atherton's barns. Keef was indicted for the burning of the barns, convicted, and sentence passed upon him, a part of which was to sit on the gallows with a rope round his neck. On the day his punishment was to be inflicted, he sharpened the case-knife that was handed in to him with his food, on the brick jamb of his cell, and cut his throat with it from ear to ear. He was also indicted for attempting to excite an insurrection, which indictment was discharged by his death. His defence for burning the barns was, that it was impossible Keef should be guilty of injuring Mr. Atherton, as he had always considered him and spoken of him as his best friend. The inhabitants were so alarmed at the production of these letters, and apprehensions that others, how many they knew not, were concerned with him, that they kept up a watch for some time, till at last they were satisfied Keef had no associate, — that it was an infatuation confined exclusively to his own vindictive and restless temper. There was not ascertained the least evidence that he had any partisans in his burning and insurrectionary designs. My father's losses were in some



degree repaired by the kind contributions of his neighbors. We then had no insurance offices.

In 1791 my father was appointed a delegate to the Convention for Revising and Amending the Constitution of 1783, which Convention, with the approbation of the people, established the Constitution of 1792.

In 1792 he was chosen to represent the town of Amherst in the General Court, but being chosen Senator at the same time, he accepted the latter office, and vacated the first. In 1793 he was also chosen Representative and Senator, and, taking his seat in the Senate, he relinquished his seat in the House. During his Senatorship he made an effort to induce the Legislature to establish a court of equity, or to invest the Superior Court with extended equity powers. This effort failed. The State was not then prepared for this novel improvement in the administration of justice, which, however, some years afterwards, they found it wise and expedient to adopt. He officiated as a Senator in the summer session of 1793, but resigned before the fall session, having accepted the office of Attorney-General, to which he was appointed June 11th, 1793.

After the Federal Constitution went into operation, under the auspices of Washington and Alexander Hamilton (of whose characters he was an ardent admirer), and exhibited proof of a steady, wise, and firm government over the whole country, in obedience to what was with him a constitutional bias, he became a strong supporter of the government and its administration. It was a part of his nature to be afraid of changes in government. Of all experiments he thought them the most hazardous. This was in him

perhaps carried to excess. He dreaded less the known evils of existing establishments, than the unknown that might result from a change. This naturally led him, when a change was effected and had the appearance of permanency, to acquiesce in the new state of things, and to become its supporter.

In 1798 he was appointed a Commissioner for the County of Hillsborough, under the act of Congress, approved by President John Adams, July 9th, 1798, "to provide for the valuation of lands and dwelling-houses, &c., in the United States," with a view to the laying and collecting direct taxes, the first of which was a tax of two millions, laid by the act of July 14, 1798. These acts were extremely unpopular in New England, particularly in New Hampshire and the county of Hillsborough. It was the first attempt of the general government to put their hands directly into the pockets of the people, and their appointment of Mr. Atherton was inopportune and impolitic. It was supposed his known popularity would have a tendency to allay opposition, and reconcile the people to this novel mode of taxation. This was a great mistake. Circumstances had changed the sweetness of his popularity into gall and bitterness.

The excitement which the French Revolution had caused throughout the country, — the joy with which it was hailed by one party, and the dread and horror with which it was viewed by the other, — the difficulties which the government had to encounter to preserve the neutrality of the United States, and at the same time show a proper resentment at the outrages of England and the still greater outrages of

France upon our commerce, and not side with England or fraternize with France,—had divided the country into two great parties, designated in popular phraseology as English and French. There seemed to be left no middle ground upon which a man could stand for his country.

Mr. Atherton had all the English prejudices against the French nation. He agreed with Voltaire in his definition of a Frenchman, “half tiger and half monkey.” He had no belief that they were capable of self-government. The unheard-of cruelties and blood-thirstiness developed in the progress of their revolution he viewed with consternation and horror, and looked forward to its results with the most gloomy forebodings. He rejoiced in Washington’s proclamation of neutrality, in the Jay treaty with England in 1794, and in the act of Congress of the 7th of July, 1798, which dissolved our treaties with France, and declared them to be no longer obligatory. Even Washington’s popularity shook under the dissatisfaction occasioned by this proclamation and the Jay treaty, which were supposed to favor England, and to be against fraternization with France. These measures were too much for President John Adams to withstand. He was openly charged with being in the pay of England. British gold was supposed to have corrupted all those Whigs who had been the leaders in our Revolution, but who favored these measures.

If the most consistent and prominent Whigs did not escape this obloquy, a Royalist like my father stood no chance. He coincided with the executive branch of the government. He thought it safer for his country and the world, that Protestant England,



the only great power in Europe that possessed any thing like constitutional liberty, should in that terrible struggle prevail over atheistic and Roman Catholic France, ignorant as he believed her of the principles of civil liberty and the means of attaining it. All the old jealousies and prejudices of the Revolution were revived against him, with a bitterness and rancor more severe than had been experienced in this region in the most trying crises of the war. He, however, discharged the duties of his office of Commissioner acceptably to the government, and had the honor of being hung in effigy in the town of Deer- ing, as his friend, the venerable Samuel Livermore, had of being burned in effigy in the town of Ports- mouth, for voting for the Jay treaty in the Senate of the United States.

My father's constitution failed at the age of sixty, that is, in 1797, in consequence of an organic af- fection of the heart, which from that time per- ceptibly enfeebled his mental, as well as his bodily energies. Of this he had an unpleasant hint in the refusal of the Legislature, at the fall session in 1800, to vote him his salary. By this time his inefficiency had become so conspicuous, that the Legislature wished to force him to resign. He had clung to the office too long for the public service and his own reputation. His salary, which had never exceeded three hundred and thirty-four dollars a year, had, however, become important, if not essential, to the sustenance of his family, which now consisted of a sick wife and five unmarried daughters, with small means for their support. He of course resigned his office of Attorney-General. His son-in-law, the Hon.

William Gordon, was appointed his successor, June 12, 1801. His civil business had for years past left him and found its way into the office of Mr. Gordon, who commenced practice in Amherst in 1788, and into the office of his son, Charles Humphrey, who opened his office in the same town in the fall of 1797. After 1800 he exercised the office of a magistrate, and occasionally that of a justice of the peace throughout the State. But his disease was very oppressive, and at times exceedingly depressed him, and by its gradual encroachments wore upon him and terminated his life on the 3d of April, 1809, when he was nearly seventy-three years of age.

My father's children who arrived at maturity were Frances, born October 31, 1766; she was the wife of the Hon. William Gordon, and after his decease she married the Hon. Benjamin West of Charlestown, whom she survived; — Charles Humphrey, born the 14th of August, 1773, married Mary Ann Toppan, the daughter of the Hon. Christopher Toppan of Hampton, and who deceased in 1817; — Abigail, born October, 1775, who was the wife of the Hon. Amos Kent of Chester, whom she now survives; — Rebecca Wentworth, born August, 1778, now the wife of Matthias Spalding, M. D., of Amherst; — Nancy Holland, born March, 1782, unmarried; — Catharine, born June, 1784, who married Colonel David McGregor Means, whom she survived but a few years; — and Elizabeth Willard, born May, 1786, who married the Hon. Ralph H. French, both now (1852) living. The death of his wife in 1801, and that of his son-in-law, Mr. Gordon, in 1802, were to him and his whole family calamities the most severe.

Frances left only one child, William Gordon. Charles Humphrey has two children, viz. Charles G. and Mary Ann T. The widow Abigail Kent has six children, viz. Abigail A., the widow of Robert Means, Esq., Mary M., the wife of James McGregor, Frances G., the wife of Thomas M. Smith, Amos, George, and Frederick. Rebecca W. Spalding has three children, viz. Edward, Alfred, and Abigail A, the wife of the Rev. J. G. Davis. Catharine, now deceased, who married David McGregor Means, deceased, has now surviving eight children, viz. Robert, Mary Jane, the wife of the Rev. F. A. Adams, Nancy Ellis, James, William G., Eliza Frances, the wife of E. B. Bigelow, Esq., Helen McGregor, now the wife of the Rev. Daniel Parker Noyes, and Rebecca, the widow of Robert Appleton. Elizabeth W. French has for children George A. and Charles.

Mr. Atherton in stature was about five feet seven inches in height, with a heavy brow, hazle-gray eyes, and prominent nose, broad over the shoulders and chest, with a comely expansion of body and waist. His nether limbs were rather small for the weight above them. Walking was not a favorite exercise with him. The saddle, till he grew too infirm to mount his horse, and then a chaise, was his vehicle. He was reputed not only a good-looking, but a handsome man. The last tie-wigs noticed in this county were worn by him and his friend, the Hon. Ebenezer Champney. His manners were of the old school of English gentlemen, quite different from our naked and plain republican manners. He was remarkable for his social qualities. His courtesy and urbanity will ever be remembered by those who were familiar

with him. His hospitality was unbounded. The clergy, the gentlemen of the bar, the judges, officers of the Revolution, and every stranger of distinction within the reach of his invitations, were his welcome guests. He was a good liver, and delighted in company at his well-cooked dinners. He liked a good glass of wine, and the grace and pleasantry with which he mingled his bowl of punch and distributed it among his guests are vivid in my recollection. With all his inclination to good cheer, he was never known to indulge to excess either in eating or drinking. His rule seems to have been to spend in hospitality and good dinners all his earnings. His course of life seemed unfortunately to say, "Let us enjoy to-day, for we know not what to-morrow will bring forth." Whether this was a lesson taught him by the Revolution, in which all the hopes and aspirations that could fill the bosom of an educated young man were blasted, forcibly impressing upon him the vicissitudes and uncertainties of life, or whether it was a part of his nature, and would so have led him to conduct under any circumstances, I have never been able satisfactorily to determine.

He was a good scholar, and his literary taste was refined. As a sound lawyer and advocate, his rank was high. He had the best law library in the State, out of the town of Portsmouth. He was not ordinarily eloquent or fluent; his voice was not the best; but when his feelings were aroused, and their excitement did not overcome him, he was not only eloquent, but forcible. He treated the general run of his clients with great distance, such as would not be suffered in these days. At one period of his life, he was a most successful advocate with the jury.

He was not what would be called a religious man, if an implicit belief in the tenets then most prevalent and an ostentatious profession of superior piety were necessary to gain him that appellation. But it was by his influence that the Rev. Jeremiah Barnard was settled as the minister of Amherst, March 3, 1780. His preference for Mr. Barnard resulted from the superior liberality of his views compared with those of the other candidates. He was a member of no church, but a constant attendant on public worship. He revered the character of Jesus and the morality of his Gospel, and was a firm believer in the immortality of the soul; but to many of the articles of the religious creeds then and now generally inculcated, he never seemed able to yield his assent. He was accustomed to direct the schoolmaster and the clergyman not to teach his children the Primer catechism then universally in use.

My father, when on the circuit or short journeys, was a most kind and affectionate correspondent with his family, and with his children when they were absent on visits or at school. Without the prosing of moral lectures, they were full of affectionate advice as to their cheerfulness, health, and conduct, as circumstances afforded opportunity. In one he says: "Shall I give you parental advice? It is difficult to lay down rules that can be of any service. A good heart and a good degree of knowledge are the best rules. Circumstances are so various, to be tied to a set of rules is more embarrassing than the circumstances themselves. But if I should give a rule, I would say, *Never* do what your heart disapproves."

To a child in affliction for the loss of a very dear



friend he says: "Our friends must leave us, or we must leave them. The sorrows of the living avail not the departed friend. Vain are all human calculations, even upon the most flattering prospects of happiness. Still it is best, it is right, that we should make the best use we can of this miserable world; that we should create as many innocent enjoyments as our ingenuity can add to the substantial blessings of this sublunary pilgrimage. If there is not a better life, if there is not a life of eternal happiness, attainable by the wise and the good, — all surely — all is nothing. BUT THERE IS."

To another, sorrowing for the loss of her husband, he wrote: "What will it avail to tell you to summon all your fortitude to your assistance? Surely none can need it more. The loss will be irreparable to us all, but more especially to you. I have ever thought it of little avail to reason with the feelings of the heart. Yet perhaps something may be done. There is always an irresistible consideration in the great events of Providence, that they *cannot be altered*. Our tears, our deepest distress, reach not the departed friend. They cannot alter *what is*. They may indeed be injurious to ourselves, and for that reason as much as possible to be avoided. Reason herself perhaps increases our grief, and all her admonitions are at best but idle tales. The heart is too deeply wounded to listen to her cold and formal lessons. Are we, then, without remedy? Far otherwise. The great Ruler and Disposer of all things has not left the sons and daughters of men without a healing angel, and has said unto them, *Time shall heal thy sorrows*. Heaven is but claiming its

own. Are we not too selfish, to murmur at the decree that makes our friend eternally happy? All has been done that could be done; the rest must be left to the disposal of Heaven."

To a daughter at school he writes: "You are now treading the pleasing paths of knowledge, — I do not hesitate to believe, with industry and delight. Recollect, nothing valuable is attained without industry and labor. But the compensation in the struggle to acquire knowledge is beyond computation. Ignorance is the most frightful monster that ever preyed upon the human race. Who are despised? The ignorant. Who are almost useless, nay, a burden upon society? The ignorant. Who are the vicious and extremely wicked? The ignorant. Knowledge and virtue exalt the mind and delight the heart, assimilate the possessor to angels, and, if other possessions and enjoyments are denied, knowledge and virtue cannot be taken away by the cross accidents too often experienced in life. I well know advice is justly expected from a parent; but alas! it is generally too distant a guardian. My advice will be short. Learn, my dear child, to govern thyself. This will be a counsellor always at hand. Do nothing to repent of. Repentance is a cruel mistress. Blessed innocence what a lovely companion! Be careful of your health. Avoid the evening air, unless very pure. Be cheerful, and divert yourself in-doors; and I permit you to remember that all innocent diversions, when useful business is not on hand, are almost a duty, and are a blessing afforded us by the Author of our being, to smooth the rough paths of human life, and restore our faculties to vigor and activity. May you enjoy, my

dear child, every felicity compatible with your present situation ; and be assured my affection for you is unbounded.”

In his absences, his letters frequently express his anxiety to be with “his delightful family.” These letters are written with ease and elegance, and breathe the fondest and most affectionate regard. If collected, they would form an interesting volume of letters from a father to his children.

In 1789 my father procured the incorporation of a literary institution in Amherst, and gave it the name of the AUREAN ACADEMY. Its first instructor was Charles Walker, a graduate at Cambridge in the class of 1789, the son of Judge Timothy Walker of Concord, a good classical scholar, and a gentleman. The second instructor was Daniel Staniford, a graduate of Harvard College, a ripe scholar in all the branches then taught, and afterwards a tutor in the same University. The third was Jesse Appleton, afterwards the venerable and respected President of Brunswick College. My father and Colonel Robert Means were principally interested in this excellent school on account of their families, mostly females, and here their children received an excellent elementary education, under the most competent instructors. The support of the institution depended chiefly upon them, and when their interest in it on account of their own families ceased, they became disinclined to assume the expense of the school ; and no others coming forward to take upon themselves the burden, the gold of the Aurean Academy became dim, and at last turned into dross, and the academy was abandoned in 1801.

It may be difficult for the generations that have arisen since the Revolutionary War, who now occupy the vast domains of the United States, and hold in their hands and have the control of the destinies of the country, and perhaps of the world, — now that the United States have a firm general government operating directly upon the people, fully competent to the exigencies of peace or war, — now that their territory extends from the Atlantic to the Pacific, from the Gulf of Mexico to the Northern lakes and Oregon, — now that its population has increased to twenty-three millions of the most active and intelligent people, living under our own vine and fig-tree without any to molest or make us afraid, that the world ever witnessed in any nation, — now that every species of industry is open to be pursued by every citizen without restraint, as his genius and inclination shall direct, — now that all the improvements of ancient and modern times find a home among us, and give us a progress and power more rapid and more complete than any other people the sun ever shone upon, and have rendered our Revolution the most beneficent and remarkable epoch in the history of the human race, the Christian era alone excepted, — I say, it may be difficult for these generations to justify, or even to palliate, the opinions of those who were opposed to the war and a separation from the mother country. But candid and reflecting persons will pause and consider, and weigh well the facts of history. They will remember that the name of Tory was affixed to those who were unfriendly to a breach with the mother country before the war; that there was then no question between a republic and a mon-

archy; and that there was then no hostility to a monarchy, as such. The uncompromising and ardent desire for republicanism was a plant of later growth. Franklin, a few days before the battle of Lexington, said that "he had more than once travelled from one end of the continent to the other, and kept a variety of company, eating and drinking and conversing with them freely, and never had heard in any conversation, from any persons, drunk or sober, the least expression of a wish for a separation, or a hint that such a thing would be advantageous to America." Mr. Jay says, that, until the second petition of Congress in 1775, "I never heard an American of any class, or of any description, express a wish for the independence of the Colonies. The country was impelled to independence by *necessity*, not *choice*." Jefferson affirmed, that, "before the commencement of hostilities, I never heard a whisper of a disposition to separate from Great Britain, and often, that its possibility was contemplated with affliction by all." Washington in 1774, in the Fairfax County resolves, complained "that malevolent falsehoods were propagated by the ministry to prejudice the mind of the king, particularly that there is an intention in the American Colonies to set up for independent states." Mr. Madison in 1776 says, "It has always been my impression, that a reëstablishment of the colonial relations to the parent country, as they were previous to the controversy, was the real object of every class of the people, till the despair of obtaining it." John Adams said, "There was not a moment during the Revolution when I would not have given every thing I possessed for a



restoration to the state of things before the contest began, provided we could have had a sufficient security for its continuance." So it appears the Whigs were willing to remain colonists to the British monarchy, if they could have had their rights secured to them. The commencement of hostilities was undoubtedly for a redress of grievances. The Declaration of Independence was a thing of necessity, to vest in the Colonies, while the controversy was red with blood, the right of aggressive war, and to enable them to form foreign alliances and procure foreign succors.

If the policy of the Great Commoner, Pitt, could have been followed, if he could have been reinstated in the control of foreign affairs, all would have been peace and quietness, although at some future time we should unquestionably have fallen off from the parent stock, like fruit fully ripe. But unfortunately, George the Third came to the throne with high notions of his own prerogatives, and, with an obstinacy common to his family, was determined to coerce the Colonies, and lent his ear to those whose opinions flattered his own. Pitt, the greatest and most successful minister England has ever had, and who added more laurels to the British crown than any other leader of the Cabinet, was left in a minority, and compelled to resign. He never afterwards had any control in foreign affairs. Before the close of the war, he was so broken by disease and age, that he could take no effective part in politics. Conscious of his own superiority, he would not belong to a ministry whose counsels he could not control.

Measures were prosecuted on the part of Great

Britain with unrelenting rigor, to force the Colonies to compliance. Almost miraculously, the war terminated disastrously to her. The Colonies were like the stripling David, who planted his sling-stone in the forehead of Goliath. The Almighty seemed visibly to stretch out his arm to keep, protect, and succor us in the palm of his hand.

Let us not forget the hazards of the war and our hairbreadth escapes; — that we were thirteen disunited colonies, antipodes in climate, industry, and habits; that we had no general government, the Congress being little more than an advisory committee; that the tardiness of the Colonies in furnishing their quotas of men, money, and provisions, and materials of war was afflicting and most discouraging; that but for the exertions and intrepidity of Massachusetts, the cause must have sunk; that she furnished nearly one quarter part of the soldiers employed in the war, — 40,000 more than Virginia, 55,000 more than Pennsylvania, and 62,000 more than New York; and that the continued and successful union of these Colonies during a seven years' war is among the miracles of confederations.

It is to be remembered, also, that the army were unpaid, unfed, unclothed, and unsheltered, so that they were on the point of dissolution, and Washington himself wrote, he might be under the necessity of flying beyond the Alleghanies with a few select followers. Nor should the dissatisfaction manifested by the army at Newburg, when they were on the point of taking all power into their own hands, of doing themselves justice and avenging their insufferable wrongs, escape our recollection; nor the fact

that no man but George Washington that the world ever produced,—no man who had less of the abnegation of self than he, and whose faculties, intellectual and moral, and whose affections and passions, were a little differently balanced from his,—no man who had less of the veneration and respect of the army, and who had acquired in a less degree the confidence, affection, and love of every man, woman, and child in the country,—could have rebuked the rising conspiracy, and caused the sentiment of patriotism in this neglected and suffering army, with arms in their hands and with a consciousness of their power, to triumph over the deep sense of the neglect of their country and the sufferings of themselves and their families. No man but exactly such a man as God gave us in Washington could have effected this triumph of patriotism over feelings exasperated by neglect and injustice, or could have brought the contest with Great Britain to a favorable close. Let us always remember Washington and his patriotic army with the gratitude of our inmost hearts!

But our dangers and hazards were not yet over. After the peace, the country was in a most exhausted and destitute condition. The people were impoverished, and unable to pay their debts or taxes. There was no currency; the paper-money bills of credit, with which the army were paid, depreciated in value, so that one hundred dollars would not purchase what may now be bought for a pistareen. Mobs surrounded our courts of law to forbid the issuing of executions, and our halls of legislation to require the abrogation of debts and of taxes. For the want of a currency, tender and sumptuary laws were the order

of the day. On the 18th of January, 1777, the General Court of New Hampshire passed a law affixing prices to all the necessaries of life, and to all articles which the people had been accustomed to sell and buy. Labor was fixed at three shillings per day in summer; severe penalties were established for taking any more, or for refusing to take the paper money of Congress or of the Colonies, or for asking less in coin than they would take in paper money. This act recited that "the exorbitant price of labor and the necessaries of life, unless speedily remedied, would be attended with the most fatal and pernicious consequences." This and similar laws were intended to uphold the depreciating currency of paper money; but their effect was, without stopping the depreciation, to put the little coin then in the hands of the people out of sight, and to cause all persons to hold on to what they had, and not to sell any thing. An attempt was made to remedy this difficulty by enacting, that, if there was any good cause to suspect, that any person had more than should be judged necessary for the use of himself, family, and dependants, searches might be made, and such property forcibly taken for public use and other purposes; than which a more tyrannical law never disgraced the legislation of a free people. Barter, or the exchange of one article for another, was the only trade in New Hampshire. Molasses made of cornstalks supplied the place of several articles of importation. These oppressive laws were of short continuance, for the Whigs, who enacted them, found that they increased tenfold the evils which they were intended to remedy. They are referred to here to show our improv-

erishment and distresses in the second year of the war. After the war had been terminated several years, such was the dissatisfied state of the country that one army of five thousand and another of ten thousand were assembled in Massachusetts to control the government of the State.

In this day of dissatisfaction and darkness, the Constitution of the United States came forth under the recommendation of Washington, the President of the Convention which formed it, as the anchor of hope, for the salvation of the country. The provisions of the Constitution were so novel, and what the people had been so unaccustomed to, who were even now almost unprepared for any thing that could be called a general government, that it was viewed with great jealousy. North Carolina rejected it, and the meagre majorities by which it was ratified in New York, Virginia, Massachusetts, and New Hampshire makes it fair to presume, it was by the recommendation of Washington and the confidence placed in him by the country that its ratification was procured in a sufficient number of States.

Now occurred the French Revolution. The people were infatuated by the siren sound of Liberty, Equality, and Fraternity, with which all their proclamations and acts were prefaced. French emissaries were spread throughout the country, the immediate object of whom was to entice the United States to join France in the war with England, and to give her the control of American affairs.

Then comes the Proclamation of Neutrality by George Washington, President of the United States, which almost shook him from his throne in the af-



fections of the people. His popularity surmounts the shock, and it is undoubted that no man but Washington could have breasted the terrific bias of the country to French fraternization, the consequences of which we are now all able fairly to appreciate.

A similar crisis occurred on the Jay treaty with England in 1794. The alternative was, the ratification of this treaty, or a war with England and a union with France. It is believed that the ratification of this treaty, and the carrying of it into effect, was owing exclusively to the influence of Washington. The partisans of France gnashed their teeth at Washington, and vented their disappointment by the most severe denunciations.

Even to us of the present advancing and, I trust, not over-confident generation, — to us pondering on these things, the question comes with an appealing force, — Might not a man who was under an oath of allegiance to the British crown, — who was acquainted with the history of nations, and knew the dangers of revolution by violence, and saw that the Colonies stood between the two most powerful nations of the earth, the object of their grasping wishes and a bone of contention to their lust of territory and power, — honestly, conscientiously, and under the behests of a strong sense of duty, have adopted the feelings and sentiments and pursued the course which Mr. Atherton did ?

The officers and Whigs of the Revolution, those who had seen and felt the hazards of the war, and who witnessed the exhausted, impoverished, and dissatisfied condition of the country after the peace, did

not manifest any feeling of condemnation towards those who had acted the part of my father. This is clearly shown by the public favor that clustered about him immediately upon his acknowledging the State government, and which followed him until the division of the country into English and French partisans by the war between England and France, in which England contended for her existence, not only against French arms, but against the more insidious and dangerous invasion of French principles. When the Revolutionary War was over, and people began to think calmly of the hazards we had run and the distresses of the country, many were the Whigs who took my father by the hand, and expressed their surprise that they had not been of the same way of thinking with him. Shall the successors of the Whigs of the Revolution, and the inheritors of the fruits of their labors, form a less lenient judgment than the Revolutionists themselves?

I can trace the genealogy of my father no farther back than to his great-grandfather, James Atherton. The first thing we know with certainty of this James Atherton is, that he was a tanner in that part of Dorchester now included in Milton; that before 1653 he was an inhabitant of what was then called Nashua; that in 1653 he, with twenty-five other inhabitants of Nashua, procured its incorporation by the name of Lancaster; that a large portion of his real estate in that town fell on that part of the Nashua called Still River, in that part of Lancaster now Harvard; that this estate was divided into several farms, now owned by his descendants; that here

he followed farming and tanning; that he was a married man, and his wife named Hannah; that here, on the 13th of May, 1656, his son Joshua, my father's grandfather, was born; that he signed the church covenant in Lancaster in company with Stephen Day, the earliest printer in New England; that here he continued until, in King Philip's war, — and when Lancaster was sacked by the Indians, the house of their clergyman, Mr. Rolandson, burned, and his wife taken captive, probably about the year 1676, — he returned with his family to the old homestead in Milton. Here he paid a respectable tax till the year 1703, when he removed with his wife Hannah to Sherburne in the county of Middlesex, and lived with his daughter Deborah, who was married to Samuel Bullard of that place. He died at the age of eighty-six, as appears by the probate of his will. He never returned to his farm and lands in Lancaster, but conveyed them to his sons James and Joshua, "to settle them in the world," as his deed expresses it. His son Joshua had married Mary Gulliver of Milton, where he was taxed, sometimes in partnership with his father, till 1685. He had some children born at Milton, and about 1687 moved to Lancaster, into the old homestead which his father, James, had occupied there, and followed farming and the trade of a tanner. This Joshua had a numerous family, of which Peter, my grandfather, was the youngest.

The James Atherton first named above was probably a younger brother of Humphrey Atherton, so much distinguished in the early history of Massachusetts. It is believed that he arrived with Humphrey at Boston on the 17th day of August, 1635,

in the ship James, from Bristol, in which was the Rev. Richard Mather, with a hundred other emigrant passengers. That James was the brother of Humphrey is somewhat confirmed by the tradition in the families of his descendants, by their keeping up the name of Humphrey among their children, and by the fact that Humphrey Atherton in 1653, and subsequent to that time, was one of the Assistants or Council, and had the location, settling, and naming of Lancaster, which probably was their place of residence in England. It might, however, have been in Atherton, in the same county. It was under his patronage that his brother James settled at Nashua, afterwards Lancaster.

As the name of Humphrey Atherton has been introduced into this memoir, and as he was a distinguished character in the early settlement of the Province of Massachusetts Bay, and there is so much singularity in his life and death, I do not hesitate to conclude this memoir with some notices of him, derived from the first writers and historians of the Province, to be found in the Collections of the Massachusetts Historical Society, and principally taken from Winthrop, Hubbard, and Johnson's "Wonder-working Providence."

As has already been stated, he is supposed to have arrived at Boston, with his wife and some children, on the 17th of August, 1635, in the ship James, Captain Taylor, and pitched his residence at Dorchester, about three miles from Boston. He was affianced to his future wife, Mary, when he was six years of age and she was five. Their nuptials were consummated when he was between fourteen and fifteen years of

age and she between thirteen and fourteen, so that when their eldest child was one year old, the ages of all three amounted to thirty years. He signed the covenant, and was admitted a member of the Rev. Richard Mather's church, in 1636, and was soon after made Deacon; he was admitted a freeman in 1637, probably as soon as he arrived at twenty-one years of age. He was a member of the Ancient and Honorable Artillery Company, and was promoted therein till he was commander of the company from 1650 to 1658. He was leader and commander of the first train-band formed in Dorchester, in 1644. He was commander of the Suffolk regiment, and was after appointed to command the military forces of the Colony, with the title of Major-General, and was the chief military officer in New England. He was elected the first deputy from Dorchester to the Great and General Court in 1648, and for the eight following years. Having estate in Springfield, he represented that town in 1653, and was Speaker of the Assembly the same year. He was employed in several expeditions against the Narraganset Indians, and when they became tributary to Massachusetts, he was several times sent to collect the tribute of wampum. On one occasion, when the payment of the tribute had been greatly delayed, he took twenty men with him in order to collect it. The Indian sachems, with a large number of their warriors, were in council, devising means to avoid the payment. Captain Atherton, impatient at the delay and evasive answers, suspecting that evil was brewing, and being refused admittance to their presence, marched with his twenty men to the council wigwam, and,



leaving his men outside, with pistol in hand rushed through the crowd of armed Indians, two hundred or more, and seized Passacus, the chief, by the hair of his head, asseverating "that, if any one stirred, he would quickly speed him," and drew him forth out of the wigwam. The Indians were so astonished at this boldness, that no resistance was made, and "the tribute was paid in full, and the English returned in safety." He is represented as "a man of a cheerful spirit, very lively and courageous, slow of speech, and entire for the country, and of great presence of mind." "He and Edward Tomlins were sent to treat with Miantonomo, a sachem of the Narragansets, and he questioned him on the Ten Commandments." He supplied the place of Gookin several years as superintendent of the praying Indians. "In 1645 the Commissioners of the four United Colonies appointed a council of war, and placed Captain Standish at its head: Mason of Connecticut and Leverett and H. Atherton of Massachusetts were his colleagues." "With Lieutenant Clap he was empowered to lay out the Indian plantation at Punkapoag (now Stoughton), not exceeding six thousand acres of land."

Major-General Atherton, with some associates, purchased and held in mortgage from the Indian sachems the whole Narraganset country. The title was questioned, and afterwards confirmed judicially and legislatively. But when Rhode Island became vested with the jurisdiction, they ousted Atherton's tenants and assumed the ownership of the towns, disposed of the lands to whom they pleased, and cheated his heirs out of the whole. He was reputed rich

when he arrived in New England, and the inventory of his estate was quite respectable for that time. About his house were discovered fixtures which give rise to the conjecture that he was a soap-boiler by trade; but these fixtures might well have been placed there by some one of his sons, in the lifetime of the father.

His death was melancholy. The accounts of it do not perfectly agree. One is, that at a review of the whole military force of the Province, then consisting of ten companies of foot and two companies of horse, his horse came against a cow, threw him, and broke his neck. Another is, that the accident happened on his return from the review to his domicile at Dorchester. It was considered a "judgment"; and a day of humiliation, fasting, and prayer throughout New England was the consequence.

He had twelve children. The names of only nine of them have come down to us, viz. JONATHAN, KATHARINE, REST, INCREASE, THANKFUL, HOPE, CONSIDER, WATCHING, and PATIENCE. What a galaxy of names for a major-general and a warrior! They prove him to have been a full-blooded Puritan. He would have fought well under Cromwell. His three daughters married, one a Trobridge, one a Mather, one a Swift, names of note in the Colony. His sons or their descendants do not appear to have arrived at any distinction, save only that of mariners, farmers, mechanics, and honest men, unless his son Hope may be excepted, who was a graduate at Cambridge in 1665, taught the grammar school at Dorchester, and was settled in the ministry at Hadley. It is related of him, that a company of Indians, in Philip's war, were

in the neighborhood of Hadley with the intention of attacking the town; he, being delirious, rushed into the midst of them with his gown and band, and with great energy of action and incoherent speech and exclamations so terrified the savages that they dispersed, thinking him to be an emissary of the Great Spirit. So Hadley was saved at this time. Afterwards a more resolute company of Indians surrounded the town, and a battle ensued, in which the English were victorious.

There is now to be deciphered in the old burying-yard at Dorchester the following epitaph on Humphrey Atherton, written, probably, by Richard Mather, the teacher of his church at Dorchester:—

“ Here lies our Captain and Major  
Of Suffolk was withall,  
A Godly Magistrate was he  
And Major General.

Two Troops of Horse came here  
Such love his worth did crave,  
Ten companies of Foot also  
Marched mourning to his Grave.

Let all that read be sure to keep  
The faith as he hath done  
He lives now crowned with Christ, his name  
Was Humphrey Atherton.

Humphrey Atherton departed this Life Sept<sup>r</sup>. 17th, 1661.”

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The foregoing Memoir was written by Charles Humphrey Atherton, in the winter and spring of 1852.

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